

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

October 14, 2002
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Degginger, and Councilmembers Creighton, Davidson, Lee, Mosher, and Noble

ABSENT: None.

1. Executive Session

Mayor Marshall opened the meeting at 6:02 p.m. and announced recess to executive session for approximately 1 hour and 15 minutes to discuss one item of labor negotiations, one item of property acquisition, and one item of potential litigation.

The study session resumed at 6:58 p.m. with Mayor Marshall presiding.

2. Oral Communications: None.

3. Study Session

(a) Council New Initiatives

Mr. Lee noted a memo on Homeland Security in Council's mail and recommended that Council consider a resolution on this subject. Diane Carlson, Director of Intergovernmental Relations, said this correspondence from the National League of Cities requests a number of actions from cities and urges them to formally express support for this initiative. Mr. Mosher said Council typically interacts directly with congressional delegates on issues of interest to the City. Ms. Carlson noted that the City's Federal Legislative Agenda reflects Council's support of Homeland Security funding. Mr. Lee feels Washington politicians need to hear from cities about their need for security-related funding. Ms. Carlson will draft a letter from Council on this issue.

(b) City Manager's Report

City Manager Steve Sarkozy said the purpose of this agenda item is to provide a timely response to issues raised in recent Council meetings. He said a letter to Ivanhoe Theatre participants and their families went out on Friday.

Mr. Sarkozy said the AT&T Right-of-Way Use Agreement will be discussed by the Planning Commission on October 16 and by City Council on October 28. In response to Council's previous request, a discussion of the future use of the Ashwood site has been scheduled for the November 4 Study Session.

Mr. Sarkozy noted two incidents of tree cutting in Bellevue, one in the Summit neighborhood involving the cutting of vegetation on City-owned property. That case is pending with the King County Prosecutor's Office. A second incident involves the clear-cutting of approximately 67 acres in an unincorporated area of Cougar Mountain by a developer who obtained a King County permit. An update will be provided as new information is received.

Brad Miyake, Interim Finance Director, noted the memo on page 3-1 of the Council packet responding to Mayor Marshall's request for information about the use of Emergency Medical Services (EMS) levy funds. He said Bellevue is one of 35 local basic life support (BLS) providers in King County and one of five regional advanced life support (ALS) providers. The City expects to receive \$5.5 million in EMS levy funds in 2003, which covers 55 percent of the City's total ALS/BLS costs.

Responding to Mrs. Marshall, Mr. Miyake said the levy provides 100 percent of the funding for ALS services and 72 percent of funding needed for BLS services. He confirmed the funds cannot be used for other purposes.

(c) Continued Public Hearing on Statewide Initiative 790

Ballot title: Initiative Measure No. 790 concerns law enforcement officers' and fire fighters' retirement system, plan 2. This measure would place management of the law enforcement officers' and fire fighters' retirement system, plan 2, in a board of trustees consisting of six plan participants, three employer representatives, and two legislators.

Mayor Marshall announced the continuation of a public hearing that began on October 7 regarding Washington State Ballot Initiative No. 790. I-790 concerns law enforcement officers' and fire fighters' retirement system plan 2 (LEOFF 2). City staff provided a report at the beginning of the hearing describing what the initiative would accomplish if approved by the voters. Mrs. Marshall asked staff to comment on Council's authority to take a position on a ballot initiative.

Assistant City Manager Myrna Basich said RCW 42.17.130 authorizes the City Council at an open public meeting to express a collective decision and to vote upon a motion or resolution to support or oppose a ballot proposition. The City must give prior notice of the meeting including the title and number of the ballot proposition. This requirement has been met. Members of the Council and the public need to be afforded an approximately equal opportunity for the expression of an opposing view. Ms. Basich said this requirement is met through the public hearing process.

Mayor Marshall said Council has already opened the public hearing, heard the staff report, and listened to public testimony from Barbara Chadwick representing Bellevue Fire Fighters Local 1604. Council voted on October 7 to continue the public hearing tonight. Mrs. Marshall said speakers will be recognized in the order in which their names appear on the sign-up sheet. Individuals are allowed three minutes to address the Council on this issue, or five minutes if presenting the official position of a recognized community organization.

One citizen spoke at the beginning of the public hearing on October 7. The following citizens came forward to comment:

- (2) Mark Risen, Vice President of Bellevue Fire Fighters Local 1604 (International Association of Fire Fighters), thanked Council for continuing the public hearing. He said this is a huge issue for Bellevue police officers and fire fighters. Mr. Risen said Local 1604 feels I-790 is sound and contains appropriate safeguards to protect LEOFF 2 funds. He said the board created by I-790 would have proportional representation for all parties based upon their financial contribution to the LEOFF 2 plan. The board would be subject to legislative oversight and maximum contribution limits. Mr. Risen said the state tried to reallocate approximately \$100 million from the LEOFF 2 fund last year for general budget needs. He noted that affected employers and employees currently have no influence on the pension plan's operations. Mr. Risen said police officers and fire fighters go to work every day with the trust of the community supporting them. He said it is wrong for them to not be trusted with their own pension system. Mr. Risen said the Association of Washington Cities' publication about I-790 represents deliberate distortion of the issue. He said fire fighters and police officers pay 50 percent of LEOFF 2 costs. Mr. Risen asked Councilmembers to read the facts and to support I-790.
- (3) Tom Fields, a Bellevue fire fighter, expressed support for Mr. Risen's comments. Mr. Fields said police officers and fire fighters contribute \$1.67 for every \$1 contributed by their employers. Any increase in employer contribution rates will involve an increase in employee contribution rates as well. Mr. Fields said Washington is one of a few states with combined police/fire pension systems in which employees do not have a voice in the plan. Any proposed changes to the LEOFF 2 plan would be subject to legislative action. Mr. Fields said this is an important issue for all police officers and fire fighters.
- (4) Del Spivey, a Bellevue fire fighter, concurred with Mr. Risen's and Mr. Fields' comments. He said fire fighters and law enforcement officers have tried for several years to make changes through the state legislature. In their frustration, they found a model program that will meet the needs of all involved parties. Mr. Spivey said I-790 will give officers and fire fighters a voice in matters affecting LEOFF 2.

Responding to Deputy Mayor Degginger, Mr. Spivey said LEOFF 2 participants have been successful in lowering the required retirement age and reducing actuarial penalties for early retirement. Responding to Mr. Lee, Mr. Spivey said participants would like to see improvement in the handling of disabilities related to on-the-job injuries.

Mr. Fields noted that the changes mentioned by Mr. Spivey were implemented without increasing taxes and actually reduced contribution rates for both employers and employees. Mr. Fields said an important goal of I-790 is to prevent the state from using LEOFF 2 funds for other purposes when LEOFF 2 investment returns exceed state-mandated levels.

Responding to Mayor Marshall, Director of Intergovernmental Relations Diane Carlson said the LEOFF 2 minimum rate of return is set by the state at 8 percent, averaged over 20 to 25 years. Benefits are currently set by the legislative Joint Committee on Pension Policy.

Councilmember Mosher stated his understanding that LEOFF 2 is a defined benefit plan and not an investment pool or a 401(k) plan. This pension plan guarantees certain benefits, much like an annuity, and the state must support the plan at the 8-percent averaged annual return level. Ms. Carlson concurred.

Responding to Mr. Noble, Ms. Carlson said the state is responsible for providing the benefits of the defined benefit plan regardless of the cost. Responding to Mrs. Marshall, Ms. Carlson said past excess returns have been used to reduce contribution rates but not to reduce benefits.

- (5) Todd Simonton, a Bellevue Police Captain, spoke on behalf of the Bellevue Police Management Association and Bellevue Police Guild. He concurred with the comments of previous speakers. Mr. Simonton noted that police officers and fire fighters start and end their careers earlier than other occupations. He said LEOFF 2 participants do not receive medical benefits upon retirement. While participants do not expect the state or cities to fully fund medical benefits, Mr. Simonton said they would like to obtain a favorable group rate. He said participants want a voice in their defined benefit plan.

Responding to Councilmember Lee, Mr. Simonton acknowledged that LEOFF 2 benefits are required to be available for retirees. However, he feels the plan could be better.

In response to Mr. Noble, Mr. Simonton said California's similar state pension plan has at least 50 percent participant representation on its governing board. The City of Portland has its own pension system with at least 50 percent of its board as participant representatives. Mr. Simonton said CAL PERS was implemented through a 1992 initiative. By providing early retirement incentives, employers have benefited over time by retiring higher-paid personnel and replacing them with lower-paid, entry level personnel.

Mr. Noble noted that Initiative 790 appears to address more than just representation on a governing board. Mr. Simonton acknowledged that a stated intent of the initiative is to retain investment returns above the minimum level so they can be used for increasing benefits. The overall goal of I-790 is to improve the plan, which includes enhancing participants' representation.

- ➡ Deputy Mayor Degginger moved to close the public hearing on I-790, and Dr. Davidson seconded the motion.

- ➡ The motion to close the public hearing carried by a vote of 7-0.

Resolution No. 6755-A **supporting** State Initiative 790, placing management of the law enforcement officers' and fire fighters' retirement system plan 2 (LEOFF 2) in a board of trustees and providing authority to the board to set benefit levels, at the November 5, 2002, State General Election Ballot.

OR

Resolution No. 6755-B **opposing** State Initiative 790, placing management of the law enforcement officers' and fire fighters' retirement system plan 2 (LEOFF 2) in a board of trustees and providing authority to the board to set benefit levels, at the November 5, 2002, State General Election Ballot.

Mr. Mosher explained that he has spoken with the City Attorney about his participation in this issue because he serves as President of the Association of Washington Cities. The City Attorney sees no problems in terms of a conflict of interest. Mr. Mosher will not benefit from any action and his interest is to best represent Washington cities. Mr. Mosher said the AWC's literature notes that a retirement age of 53 is a good benefit, but this should not be interpreted to say that LEOFF 2 participants do not deserve more. He noted that while participants in investment plans enjoy the benefits of favorable investment returns, they also are subject to periodic losses. He said the state guarantees a defined retirement benefit for all of its pension plans and can use excess investment returns for any purpose. Mr. Mosher feels I-790 is inappropriately mixing a defined benefit plan with an investment approach.

Mr. Lee said it is difficult to take a position on this complex issue. He understands the concerns represented by both sides of the issue. He feels the issue boils down to what the public is willing to pay these dedicated and worthwhile employees. He will abstain from voting on the matter.

At the request of Mayor Marshall, City Clerk Myrna Basich clarified that the lack of a vote by a Councilmember is counted in the affirmative according to Council's rules.

Mr. Creighton supports the concept of representation by LEOFF 2 participants. However, I-790 goes beyond representation and reflects potential increased costs to the City and its taxpayers. Mr. Creighton discussed the difference between a defined benefit plan and a defined contribution plan. He said I-790 requests a combination of the two, with guaranteed returns of at least 8 percent but no potential for loss when investments do not perform as desired. Mr. Creighton feels the current LEOFF 2 plan is superior to many retirement plans.

Dr. Davidson said he appreciates the work of police officers and fire fighters as well as the risks inherent in these occupations. However, he is concerned that the proposed LEOFF 2 board contains a majority of LEOFF 2 participants. Dr. Davidson is opposed to I-790, which seeks to increase benefits and therefore will increase costs. He feels it is more appropriate for state legislators to deal with these policy issues.

Deputy Mayor Degginger is pleased Council chose to have this discussion. He observed that several positive changes have been made to the LEOFF 2 Plan over the years, indicating that the state legislature has listened to specific requests for reform. He is concerned about the potential

long-term financial impact for cities. Mr. Degginger noted that actions of the proposed LEOFF 2 board would be subject to legislative veto rather than approval. He is skeptical about how well this process would work.

Mayor Marshall concurred with Council's comments.

As a Councilmember, Mr. Mosher feels a responsibility to take a position on I-790 based on its potential impact to the City of Bellevue.

- ➡ Mr. Mosher moved to approve Resolution No. 6755-B opposing State Initiative 790, and Dr. Davidson seconded the motion.
- ➡ The motion to approve Resolution No. 6755-B opposing State Initiative 790 carried by a vote of 7-0, with Mr. Lee not voting. [According to Council rules, Councilmembers cannot abstain and the lack of a vote is counted in the affirmative.]

(d) Meydenbauer Reservoir Property Disposition

Mr. Sarkozy requested Council's consideration of a proposal to demolish the old Water District No. 68 treatment plant buildings. Further, should the sale of the property be used to fund the demolition?

Wes Jorgenson, Utilities Assistant Director, explained that the treatment plant was built in 1953 by Water District No. 68 and decommissioned in 1973. He displayed a series of slides showing a map and photographs of the site. The structure is reinforced concrete, resulting in higher demolition costs. Public meetings indicate neighbors support demolition of the buildings, and conversion to a park has been discussed. However, the site is located in a low-density residential area and suffers from the lack of convenient access. In addition, there are a number of parks in close proximity. Neighbors are opposed to an active park use but would like to preserve an open space.

Utilities Director Lloyd Warren requested Council direction regarding the proposed demolition of the treatment plant.

Responding to Mr. Lee, Mr. Jorgenson said a new pump station will be located on the same site. Mr. Jorgenson said the City will retain approximately one-quarter of the site for the reservoir and related facilities.

Mr. Mosher feels it makes sense to demolish the treatment plant, particularly given its location in a residential neighborhood.

Responding to Mr. Creighton, Mr. Jorgenson said the remaining life of the pump station equipment is approximately 5 to 10 years. Mr. Creighton suggested that if the equipment is to be replaced prematurely, the cost should be funded through proceeds from the sale of the property rather than through the repair and replacement fund.

Dr. Davidson is in favor of eliminating this potential liability. Responding to Dr. Davidson, Mr. Jorgenson described the design planned for the reconstructed reservoir, which essentially will result in a more aesthetically pleasing design for the site.

Mayor Marshall is in favor of the City acting as a good neighbor and removing the old water district building from the neighborhood. She noted Council consensus in favor of demolishing the treatment plant and selling the unneeded portion of the site to fund the demolition costs.

Mayor Marshall thanked staff for working with the community on this project.

(e) I-90/Sound Transit Eastgate Direct Access Project – Preferred Alternative Design

Transportation Director Goran Sparrman opened staff's report on Sound Transit's selection of a preferred alternative for design of the Eastgate direct access ramps. He reminded Council of Sound Transit's two direct access projects in Bellevue – Access Downtown and the Eastgate project along I-90.

Jim Edwards, Program Manager with Sound Transit, displayed a map of the Eastgate project site, which will be located at the 142nd Avenue SE overpass. The project management team (City of Bellevue, Washington State Department of Transportation, King County Metro, Sound Transit, and consultant team) has been working since 2000 to develop and analyze alternatives. The team has agreed on 142nd Avenue SE as the location for the new HOV (high occupancy vehicle) direct access ramp. The two final alternatives meet City of Bellevue and WSDOT design standards. Alternative D involves widening 142nd Avenue to four lanes, while Alternative B involves no widening of 142nd Avenue.

Mr. Edwards explained that Alternative B utilizes existing facilities, can be built within the existing Sound Transit budget, and meets the purpose and need for the project. It may require a HOV definition change (to three or more occupants per vehicle) or an operational change in the future. Alternative B provides a direct transit/HOV benefit by rerouting existing trips from adjacent streets. Mr. Edwards briefly reviewed associated landscaping and pedestrian amenities.

Responding to Mr. Lee, Mr. Edwards said Alternative D widens 142nd Avenue SE to four lanes for approximately 1,000 feet.

Mayor Marshall expressed concern about the narrow width of 142nd Avenue SE. Mr. Edwards assured Council the design will accommodate turning buses.

Continuing, Mr. Edwards said Alternative D is costly due to the need for a second structure. This alternative creates a budget shortfall of approximately \$10 to 12 million.

Responding to Mayor Marshall, Mr. Edwards said the project budget was set by the HOV Design Study conducted by WSDOT at the 1-percent design level. Mrs. Marshall commented it is difficult to talk about a budget shortfall at the 1-percent design level. She favors Alternative D as a more cost-effective solution for the long-term future. Mrs. Marshall emphasized that this is a regional facility. Mr. Edwards acknowledged that the opportunity exists for additional funding

from Bellevue Community College, the City of Bellevue, and the state. Sound Transit would like to initiate construction by 2005 and complete the project in 2006.

Mr. Edwards displayed and described the proposed bridge structure, which contains two 14-foot lanes and 6-foot sidewalks on each side. He described the project as a traffic mitigation project to address background traffic primarily. He reviewed a traffic analysis matrix outlining the expected delay per vehicle under several scenarios for both alternatives. Mayor Marshall expressed concern about the potential impact of these delays on adjacent city streets.

Mr. Edwards said direction from the Sound Transit Board is to complete preliminary engineering and environmental documentation for Alternative B. Next steps include hosting a second open house meeting, continuing to work with BCC and condominium owners, completing the NEPA (National Environmental Policy Act) review, and returning to the Sound Transit Board in the first quarter of 2003 for authority to enter final design.

Mayor Marshall reiterated her support for Alternative D as a better long-term solution for the region as a whole. She would have preferred an opportunity for the City's input prior to the decision of the Sound Transit Board supporting Alternative B.

Councilmember Mosher, an Eastside representative on the Sound Transit Board, explained concerns expressed by City and Sound Transit staff, as well as Sound Transit Board members, about potential traffic impacts for the City of Bellevue. There was some discussion that Bellevue could contribute additional funds to take care of the HOV and auto traffic to be diverted from city streets by the project. Mr. Mosher said the primary purpose of the project is direct access to and from the park and ride lot. He communicated to the Board that traffic is largely traveling to and from Bellevue Community College. He noted the City of Bellevue is currently funding parking improvements near BCC. Mr. Mosher said the Board's perspective is that the project is rerouting buses from Bellevue streets. The Board's decision was based on transit needs and the intended use of Sound Transit revenues.

Deputy Mayor Degginger concurred with Mayor Marshall's concern that Alternative B is not the best long-term solution. He noted increased traffic on 142nd Avenue and the need for quick, convenient access to the park and ride lot.

Mayor Marshall questioned whether the state legislature was approached for additional funds for Alternative D. She feels \$8 million is not a huge hurdle. Mr. Mosher said he has not heard any discussion in this regard. Mr. Edwards clarified that the budget shortfall is more likely to be \$10 to \$12 million.

Responding to Mr. Mosher, Mr. Edwards said the primary goal of the project is to serve regional express bus traffic. The next priorities are to serve Metro buses and to provide priority HOV access. Mr. Edwards said specific low-cost operational solutions could be implemented in the future if traffic increases by more than 15 percent and if carpool use increases significantly. He noted that such solutions may not be necessary, however.

Responding to Dr. Davidson, Mr. Edwards confirmed that the budget shortfall for Alternative D is \$8.6 million on the low end of the range. Mr. Edwards said new storm drainage standards are expected to increase project costs to the \$10-12 million shortfall.

Mr. Creighton questioned the utilization of the 142nd Avenue overpass upon completion of the project. Mr. Edwards said utilization is estimated at 10 to 20 percent for HOV and bus traffic, and the remaining 80 to 90 percent represents general purpose traffic.

Responding to Mr. Lee, Mr. Edwards commented on the alternatives considered by the project management team. One involved a T-interchange structure (at approximately 140th Avenue SE) that was determined to be unfeasible due to the terrain, the drop in the grade, and the proximity of I-405. The other two alternatives involved 142nd Avenue as described earlier.

Mr. Lee feels the project should accommodate both HOV and transit traffic.

Mr. Noble shares Council's disappointment and noted that money appears to have been the driver in this decision. He favors Alternative D as a better long-term solution. He questioned whether the East Subarea's unanticipated Sound Transit revenues could be used for this project.

Mr. Edwards noted the availability of a workable alternative that fits within the existing budget and competing demands for project funds. He said most of the improvements in Alternative D represent general purpose lane improvements and there are differing opinions about who should pay for such improvements.

Mr. Noble feels the issue should have been discussed with the Eastside Transportation Partnership.

Mayor Marshall thanked Mr. Edwards for his presentation and noted Council's interest in providing the best possible projects for the region.

(f) Guiding Principles for City Contracting Policies

Mr. Sarkozy opened the discussion about an ongoing review of the City's contracting policies by Jocelyn Mathiasen, Assistant to the City Manager, and Earle Stuard, General Services Manager.

Ms. Mathiasen said the purpose of the presentation is to solicit feedback from Council on the guiding principles that should govern contracting activities. She explained that the City's guiding principles are based on four sources: 1) state law, 2) City Code, 3) administrative guidelines, and 4) federal grant requirements where applicable. Most of the current administrative guidelines were established approximately 10 years ago.

Ms. Mathiasen said contractors are utilized for a number of reasons:

- The work requires specialized knowledge or expertise that is not available from in-house staff.
- Additional resources are needed to support a temporary peak workload.

- One-time or sporadic project needs.
- For some types of work, the law requires that contractors be hired.
- An outside or objective perspective is desired, such as an auditor.
- Insufficient staff resources to complete the work.
- When contracting is more cost-effective than doing the work in-house.

Ms. Mathiasen said staff identified the following areas in need of policy elaboration and/or clarification:

- Process to be used to select a contractor.
- Situations requiring a competitive process.
- Desirable contract term and the appropriate number of contract renewals without utilizing a competitive process.
- The handling of exceptions such as emergency work or contracts related to litigation.
- Additional opportunities for clarification throughout the contracting policies.

Ms. Mathiasen said staff is seeking Council direction to guide the development of a citywide contracting manual. Staff will initiate a citywide review of the types of contracts in place and contracting levels. In addition, the Finance Department is working with the City Manager's Office to update the Financial Management Information System to improve staff's ability to monitor contracts.

Ms. Mathiasen referenced page 3-22 of the Council packet and reviewed the proposed Contracting Guiding Principles:

- The City of Bellevue shall adhere to the code of ethics established by the National Institute of Governmental Purchasing and to the City Code of Ethics governing purchasing and contracting practices.
- Conformity with applicable federal, state, and municipal laws.
- The process should be open, accessible, transparent, and competitive.
- Firms selected should be fully capable and qualified to fulfill the terms of their contract as determined through appropriate research and review.
- Prior to initiating or renewing a contract, the City will test the market to ensure costs are reasonable and competitive.
- Contracts should cover a specified time frame.
- Contracts should be drafted with clear and rigorous standards regarding timing, cost, and quality of services.
- The contracting process and documents will be designed and managed to avoid undue exposure to liability and other risks.
- Under some circumstances, exceptions to the contracting policies may make good business sense and be in the best interest of the City.
- Mechanisms for contract management and oversight shall be maintained to assure adherence to these guiding principles.

Mr. Mosher suggested that previous experiences with contractors should be an important consideration in the City's contracting decisions.

Mr. Noble questioned whether adoption of the guiding principles will result in increased costs, delays in the processing of contracts, and/or legal challenges if the principles are not fully followed for every situation. Ms. Mathiasen said staff's goal is to streamline the process, in part through the implementation of simplified, online forms. She acknowledged the competitive process will likely cause extra work, particularly for some contract renewals. However, staff feels this provision will result in the most cost-effective contracts for the City.

Deputy Mayor Degginger expressed support for staff's review of contracting policies and processes. He wants to ensure a competitive process is employed and that steps are taken to protect the City.

Responding to Mr. Creighton, Mr. Stuard said large public works are defined by state law, which requires formal bids for contracts valued at \$20,000 or more involving a single craft or trade. Formal bids are required for contracts valued at \$35,000 or more if they involve multiple crafts. In further response, Mr. Stuard said purchase orders apply to purchases below \$35,000 and anything above that level must be subject to a bidding process. This figure was established approximately 10 years ago, and staff recommends raising the threshold.

In response to Mr. Noble, City Attorney Richard Andrews said the guiding principles could create legal difficulties if formulated as regulations. Mr. Andrews suggested establishing these points as policies as opposed to regulations would be preferable.

Mayor Marshall would like the process to incorporate a performance measure reflecting customer/public satisfaction with projects and contractors. Mr. Creighton noted staff's plan to evaluate opportunities for cost savings or other benefits by developing in-house capabilities for work currently obtained through contracts. He suggested also reviewing whether some in-house tasks should be contracted out.

Mayor Marshall noted Council consensus to proceed with the Contracting Guiding Principles, revised to incorporate Council's feedback tonight.

At 9:08 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich
City Clerk

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